

MONTANA LEGISLATIVE HISTORY

Chapter 701 19 79

Bill H _____ S 250 Original bill & history C

H. Committee on Judiciary

Hearing Date(s) Mar 02 ☒ C

Mar 16 ☒ C

_____ ☐ C

_____ ☐ C

Date Out Mar 16 ☒ C

S. Committee on Judiciary

Hearing Date(s) Feb 06 ☒ C

_____ ☐ C

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No minutes re action
taken were located.

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 Annex BILL NO. 250
2 INTRODUCED BY Turnage
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A
5 STATEMENT OF INTENT TO RECORD FOR INSTRUMENTS WHICH MAY NOT
6 BE RECORDED BECAUSE OF OPERATION OF CERTAIN SUBDIVISION
7 LAWS; ESTABLISHING PROCEDURES AND A 6-MONTH PERIOD OF
8 CONSTRUCTIVE NOTICE; AMENDING SECTIONS 7-4-2617, 7-4-2619,
9 7-4-2620, 70-21-201, 70-21-302, AND 76-3-302, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 7-4-2617, MCA, is amended to read:

13 "7-4-2617. Procedure to record documents. (1) When any
14 instrument, paper, or notice authorized by law to be
15 recorded is deposited for record in the office of the county
16 clerk, as ex officio recorder, and accompanied by the
17 required fee, he must endorse upon the same the time it was
18 received, noting the year, month, day, hour, and minute of
19 its reception, and the reception of the instrument must be
20 immediately entered in the county clerk and recorder's
21 reception book.

22 (2) The county clerk must record said instrument
23 without delay, together with the acknowledgment, proofs, and
24 certificates written upon or annexed to the same and with
25 the plats, surveys, schedule, and other papers thereto

1 annexed, in the order and as of the time when the same was
2 received for record and must note at the foot of the record
3 the exact time of its reception.

4 (3) The county clerk must also endorse upon each
5 instrument, paper, or notice the time when and the book and
6 pages in which it is recorded and must thereafter deliver
7 it, upon request, to the party leaving the same for record
8 or to his order.

9 (4) If an instrument for which a statement of intent
10 to record, as provided for in 76-3-302, has been filed is
11 deposited for recording within the 6-month period provided
12 for in 70-21-302, the county clerk shall, in addition to the
13 information required by subsections (1) through (3) of this
14 section, indicate on the instrument and on his records the
15 time and date of filing of the statement. If the instrument
16 is not deposited for recording during the 6-month period,
17 the county clerk shall remove the statement of intent and
18 any attached documents from the records and return this
19 material to the person who filed it at the address indicated
20 on the statement."

21 Section 2. Section 7-4-2619, MCA, is amended to read:

22 "7-4-2619. Indexes to recorded documents. Every county
23 clerk, as ex officio recorder, must keep:

24 (1) an index of deeds, grants and transfers, and
25 contracts to sell or convey real estate labeled "Grantors",

1 with each page divided into four columns headed,
2 respectively: "Names of grantors", "Names of grantees",
3 "Date of deeds, grants, transfers, or contracts", and "Where
4 recorded";

5 (2) an index of deeds labeled "Grantees", with each
6 page divided into four columns headed, respectively: "Names
7 of grantees", "Names of grantors", "Date of deeds, grants,
8 transfers, or contracts", and "Where recorded";

9 (3) an index of mortgages labeled "Mortgages of real
10 property", with the pages thereof divided into six columns
11 headed, respectively: "Names of mortgagors", "Names of
12 mortgagees", "Dates of mortgages", "Where recorded", "When
13 filed", and "When canceled";

14 (4) an index of mortgages labeled "Mortgages of real
15 property", with the pages thereof divided into six columns
16 headed, respectively: "Names of mortgagees", "Names of
17 mortgagors", "Date of mortgage", "Where recorded", "When
18 filed", and "When canceled";

19 (5) an index of mortgages labeled "Releases of
20 mortgages of real property--Mortgagees", with the pages
21 thereof divided into six columns headed, respectively:
22 "Parties whose mortgages are released", "Parties releasing",
23 "Date of release", "Where recorded", "Dates of mortgages
24 released", and "Where mortgages released are recorded";

25 (6) an index of powers of attorney labeled "Powers of

1 attorney", with each page divided into five columns headed,
2 respectively: "Names of parties executing powers", "To whom
3 powers are executed", "Date of powers", "Date of recording",
4 and "To whom powers are executed";

5 (7) an index of leases labeled "Leases", with each
6 page divided into four columns headed, respectively: "Names
7 of lessors", "Names of lessees", "Date of leases", and "When
8 and where recorded";

9 (8) an index of leases labeled "Lessees", with each
10 page divided into four columns headed, respectively: "Names
11 of lessees", "Names of lessors", "Date of leases", and "When
12 and where recorded";

13 (9) an index of marriage certificates labeled
14 "Marriage certificate--Men", with each page divided into six
15 columns headed, respectively: "Men married", "To whom
16 married", "When married", "By whom married", "Where
17 married", and "Where certificates are recorded";

18 (10) an index of marriage certificates labeled
19 "Marriage certificates--Women", with each page divided into
20 six columns headed, respectively: "Women married" (and under
21 this head placing the family names of the women), "To whom
22 married", "When married", "By whom married", "Where
23 married", and "Where certificates are recorded";

24 (11) an index of assignments of mortgages and leases
25 labeled "Assignments of mortgages and leases--Assignors",

1 with each page divided into five columns headed,
2 respectively: "Assignors", "Assignees", "Instruments
3 assigned", "Date of assignment", and "When and where
4 recorded";

5 (12) an index of assignments of mortgages and leases
6 labeled "Assignments of mortgages and leases--Assignees",
7 with each page divided into five columns headed,
8 respectively: "Assignees", "Assignors", "Instruments", "Date
9 of assignment", and "When and where recorded";

10 (13) an index of wills labeled "Wills", with each page
11 divided into four columns headed, respectively: "Names of
12 testators", "Date of will", "Date of probate", and "When and
13 where recorded";

14 (14) an index of official bonds labeled "Official
15 bonds", with each page divided into five columns headed,
16 respectively: "Names of officers", "Names of offices", "Date
17 of bond", "Amount of bond", and "When and where recorded";

18 (15) an index of notices of mechanics' liens labeled
19 "Mechanics' liens", with each page divided into three
20 columns headed, respectively: "Parties claiming liens",
21 "Against whom claimed", and "Notices, when filed";

22 (16) an index to transcripts of judgments labeled
23 "Transcripts of judgments", with each page divided into
24 seven columns headed, respectively: "Judgment debtors",
25 "Judgment creditors", "Amount of judgment", "Where

1 recovered", "When recovered", "When transcript filed", and
2 "When judgment satisfied";

3 (17) an index of attachments labeled "Attachments",
4 with each page divided into six columns headed,
5 respectively: "Parties against whom attachments are issued",
6 "Parties issuing attachments", "Notices of attachments",
7 "When filed", and "When attachments discharged";

8 (18) an index of notices of the pendency of actions
9 labeled "Notices of actions", with each page divided into
10 three columns headed, respectively: "Parties to actions",
11 "Notices, when recorded", and "When filed";

12 (19) an index of certificates of sale of real estate
13 sold under execution or under orders made in any judicial
14 proceedings labeled "Certificates of sale", with each page
15 divided into four columns headed, respectively: "Plaintiff",
16 "Defendant", "Purchaser at sale", and "Date of sale";

17 (20) an index of the individual property of married
18 persons and sole trader judgments labeled "Individual
19 property of married persons and sole traders", with each
20 page divided into five columns headed, respectively: "Names
21 of married persons", "Names of their spouses", "Nature of
22 instruments recorded", "When recorded", and "Where
23 recorded";

24 (21) an index to affidavits for annual work done on
25 mining claims labeled "Annual work on mining claims",

showing the name of the affiant, the name of the claim, where situated, and the year when the work was done;

(22) an index of mining claims and declaratory statements labeled "Notices of location of mining claims and declaratory statements", with each page divided into four columns headed, respectively: "Locators", "Name of claim", "Notice, when filed", and "Where recorded";

(23) an index to the register of births and deaths;

(24) an index to notices and declarations of water rights;

(25) an index to the "estrays and lost property book";

(26) an index to the record of assignments for the benefit of creditors, containing names of assignor and assignee, date and where recorded, and inventory, when filed;

(27) an index to financing statements as provided in Part 4 of the Uniform Commercial Code--Secured Transactions;

(28) an index to filed subdivision plats, containing number of lots, number of acres, filing date, and the location of the quarter section of each subdivision;

(29) an index to the book of maps and plats, which must contain the name of the proprietor of the town, village, or addition platted and a general description of the same;

(30) an index by grantors and an index by grantees of statements of intent to record, as provided for in 76-3-302,

using the attached instrument for the necessary information;

~~(30)~~ (31) a miscellaneous index, in which must be indexed papers not hereinbefore stated."

Section 3. Section 7-4-2620, MCA, is amended to read:

"7-4-2620. Details relating to indexes. (1) The county clerk may keep in the same volume any two or more of the indexes mentioned in 7-4-2619, but the several indexes must be kept distinct from each other, with the volumes distinctly marked on the outside in such way as to show all the indexes kept therein.

(2) The names of the parties in the first column of the several indexes must be arranged in alphabetical order. When a conveyance is executed by a sheriff, the name of the sheriff and the party charged in the execution must both be inserted in the index. When an instrument is recorded to which an executor, administrator, or trustee is a party, the name of such executor, administrator, or trustee, together with the name of the testator or intestate or party for whom the trust is held, must be inserted in the index.

(3) The indexes for statements of intent to record may not contain an entry for a statement filed more than 6 months previously. After 6 months have elapsed from the recording date of a statement, the county clerk shall delete the corresponding index entries."

Section 4. Section 70-21-201, MCA, is amended to read:

"70-21-201. What may be recorded -- recording copy in another county. (1) Any instrument or judgment affecting the title to or possession of real property may be recorded under this part.

(2) A statement of intent to record provided for in 76-3-302 may be recorded under this part.

~~(2)~~(3) When any instrument or judgment affecting the title to or possession of real property situated in more than one county in this state has been recorded in either of such counties, a copy thereof, certified to by the county clerk of the county in which it has been recorded, may be recorded in any other county in this state wherein any portion of the real property affected by such instrument or judgment is situated, and such records will have the same effect as if the original instrument or judgment had been so recorded."

Section 5. Section 70-21-302, MCA, is amended to read:

"70-21-302. Recording as constructive notice -- effect of recording copy in other county. (1) Every conveyance of real property acknowledged or proved and certified and recorded as prescribed by law, from the time it is filed with the county clerk for record, is constructive notice of the contents thereof to subsequent purchasers and mortgagees.

(2) A certified copy of any such recorded conveyance

may be recorded in any other county, and when so recorded the record thereof shall have the same force and effect as though it was of the original conveyance.

(3) From the time a statement of intent to record is filed with the county clerk for recording and for a 6-month period thereafter, the statement is constructive notice of the contents thereof to subsequent purchasers and mortgagees. If the instrument which gave rise to the statement is recorded within the 6-month period, then for purposes of constructive notice, the instrument is considered to have the same recording date as the statement. If the instrument is recorded after the 6-month period, then the recording date is the same as the actual date of recording the instrument."

Section 6. Section 76-3-302, MCA, is amended to read:
"76-3-302. Restrictions on recording instruments relating to land subject to surveying requirements. (1) The county clerk and recorder of any county shall not record any instrument which purports to transfer title to or possession of a parcel or tract of land which is required to be surveyed by this chapter unless the required certificate of survey or subdivision plat has been filed with the clerk and recorder and the instrument of transfer describes the parcel or tract by reference to the filed certificate or plat.

(2) If a person is unable to record an instrument

1 because of the operation of subsection (1), the person may
2 file a statement of intent to record. The recorded statement
3 serves as constructive notice for a 6-month period as
4 provided in 70-21-302. The statement is subject to the
5 requirements of Title 70, chapter 21, part 2. The underlying
6 instrument must be attached to the statement and clearly
7 marked: "This document may not be recorded because of
8 operation of section 76-3-302, MCA, and is attached only for
9 purposes of constructive notice as provided in section
10 70-21-302, MCA." No more than one statement may be filed for
11 an instrument, and no person may avoid the requirements of
12 this chapter by filing a series of successive statements."

-End-

that he has never seen a union go on strike because of not arbitrating.

A letter was submitted from Howard C. Burton, which pertains to exclusion of labor agreements. (See Exhibit B.)

CONSIDERATION OF SENATE BILL 250:

This bill is an act to provide for a statement of intent to record for instruments which may not be recorded because of operation of certain subdivision laws, establishing procedures and a six-month period of constructive notice. Senator Turnage said that the bill, as introduced, will need some amendments. He stated that in recording an instrument, they write down the date, hour and minute of the recording and this fixes the legal right to the land at that time. He said that on the day following the sale of this land, a judgment could be filed and had the judgment beat the recording at the courthouse, the person would have to pay the judgment.

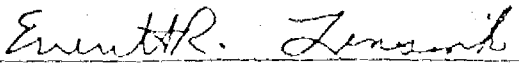
Senator Turnage also commented that if the clerk held the filing up for a day or so for some reason and someone came in with a judgment on that lot, that he thought that the clerk would be liable and the question would be who gets to the courthouse first.

John Bell, representing the Montana Association of County Clerks and Recorders offered some amendments to this bill and then he stated that they would support this bill.

Darlene Hughes, president of the association for Ravalli County said that they were trying to work up some amendments and would offer them to the committee.

There being no further questions or comments, the hearing on this bill was closed.

There being no further business, the meeting adjourned at 10:53 a.m.


SENATOR EVERETT R. LENSINK, Chairman
Senate Judiciary Committee

SENATE BILL NO. 250: Senator Turnage. This bill deals with constitutional notice in our statutes. He explained constructive notice. He went on to talk about documents that might be delayed because of the health and platting requirements. The Clerk and Recorders worked this bill over very thoroughly and they support the bill.

JOHN BELL: County Clerks and Recorders. There were some mechanical problems initially but we sat down with staff counsel and its now quite workable. We do support the bill as amended.

REPRESENTATIVE SCULLY: Questioned line 10, the statement of intent. Then followed discussion about the new amendment on page 11.

SENATOR TURNAGE: They can file the interim statement of intent to give constructive notice.

Mr. Scully asked what happens if they don't get the health approval. Discussion about the possible consequences.

Mr. Scully made the comment that you would stick another file in the Clerk and Recorders office of those grantors that just have constructive notice. Mr. Turnage explained some of the problems that had come up in Lake County, and commented that somebody might lose the farm someday.

Representative Keyser asked how much it would cost the counties. No one seemed to know if this would cost more or not.

Representative Scully asked, why not record the buyers intent or interest.

WARD SHANAHAN: Attorney in Lewis and Clark County. The recording language states "instrument to record buyers interest". Considerable discussion about this and why it had never been used in Lake County.

Senator Turnage stated, I would like to use that idea, and he went on to discuss the existing law as he understood it.

There was no other discussion and the hearing closed on Senate Bill 250.

SENATE BILL NO. 288: Senator Steve Brown. This bill deals with the merger and corporation law. He read through the bill.

sections 5 and 6 on page 4. Representative Keedy moved to amend the title. The motion to amend carried with Representative Keedy voting "no".

Representative Roth moved "not concurred in as amended". The motion failed.

Representative Roth moved "be concurred in as amended". The motion failed because of a tie vote, 7 yes, 7 no, 2 abstaining and 3 absent. The vote was again called and the motion "not concurred as amended" carried.

SENATE BILL NO. 284:

Representative Keedy moved to insert the language that the Senate had stricken.

The motion carried with Representatives Rosenthal, Anderson and Lory voting "no".

Representative Teague moved "be concurred in as amended". The motion carried with

Representative Lory abstaining. Representative Pavlovich will carry.

SENATE BILL NO. 348:

Representative Keedy moved to amend line 13, by striking "may" and inserting "need".

The motion carried with the vote unanimous. Representative Curtiss voted to amend subsection 1, lines 16, 17, and 18. The motion failed. Representative Iverson moved "not concurred in as amended". The motion carried with a roll call vote, 10 yes, 6 no and 3 absent.

SENATE BILL NO. 374:

Representative Kemmis moved prepared amendments. The motion carried with the

vote unanimous after some discussion.

Representative Uhde moved "be concurred in as amended". The motion carried with the

vote unanimous. Representative Kemmis will carry on the floor.

SENATE BILL NO. 380:

Representative Keyser moved "be concurred in as amended". The motion carried with

the vote unanimous. Representative Lory will carry.

SENATE BILL NO. 202:

Representative Lory moved "be concurred in". The committee discussed the bill at

some length. Representative Anderson moved to pass for the day. The motion carried with the vote unanimous.

SENATE BILL NO. 250:

Representative Curtiss moved to amend.

The motion carried with the vote unanimous (copy attached). Representative Lory moved "be concurred in as amended". The motion carried with Representative Anderson voting "no". Representative Scully will carry the bill on the floor.

SENATE BILL NO. 250
INTRODUCED BY TURNAGE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A STATEMENT OF INTENT TO RECORD FOR INSTRUMENTS WHICH MAY NOT BE RECORDED BECAUSE OF OPERATION OF CERTAIN SUBDIVISION LAWS; ESTABLISHING PROCEDURES AND A 6-MONTH PERIOD OF CONSTRUCTING NOTICE; AMENDING SECTIONS 7-4-2617, 7-4-2619, 7-4-2620, 7-4-2621, 7-4-2622, AND 7-4-302, MCA; THAT A NOTICE OF BUYER'S INTEREST IN REAL PROPERTY MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER; AMENDING SECTIONS 7-4-2613 AND 7-4-2619, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-4-2617, MCA, is amended to read:

"7-4-2617. Procedure to record documents. (1) When any instrument, paper, or notice authorized by law to be recorded is deposited for record in the office of the county clerk, as ex officio recorder, and accompanied by the required fee, he must endorse upon the same the time it was received, noting the year, month, day, hour, and minute of its reception, and the reception of the instrument must be immediately entered in the county clerk and recorder's reception book.

(2) The county clerk must record said instrument

without delay, together with the acknowledgment, proofs, and certificates written upon or annexed to the same and with the plat, surveys, schedule, and other papers thereto annexed, in the order and as of the time when the same was received for record and must note at the foot of the record the exact time of its reception.

(3) The county clerk must also endorse upon each instrument, paper, or notice the time when and the book and pages in which it is recorded and must thereafter deliver it upon request to the party leaving the same for record or to his order.

(4) If an instrument for which a statement of intent to record is provided for in 7-4-302 has been filed, is deposited for recording within the 6-month period provided for in 7-4-302, the county clerk shall, in addition to MAY NOT RECORD THE INSTRUMENT UNLESS the information required by subsections (1) through (3) of this section, indicate on the instrument and on his records the time and date of filing, AS WELL AS THE RECEPTION NUMBER OR BOOK AND PAGE NUMBER of the statement OF INTENT ARE INCORPORATED IN THE INSTRUMENT. If the instrument is not deposited for recording during the 6-month period, the county clerk shall remove the statement of intent and any attached documents from the records and return this material to the person who filed it at the address indicated on the statement. THE STATEMENT OF INTENT

1 ~~IS VOID: THE PERSON WHO FILES THE STATEMENT OF INTENT MAY~~
 2 ~~RELEASE THE STATEMENT WITHIN THE 6 MONTH PERIOD BY FILING~~
 3 ~~WITH THE COUNTY CLERK A RELEASE THAT INCLUDES THE TIME AND~~
 4 ~~DATE OF FILING AS WELL AS THE RECEPTION NUMBER OR BOOK AND~~
 5 ~~PAGE NUMBER OF THE STATEMENT."~~

6 SECTION 1. SECTION 7-4-2613, MCA, IS AMENDED TO READ:
 7 "7-4-2613. Documents subject to recording. The county
 8 clerk must, upon payment of his fees for the same, record,
 9 photograph, or correctly copy, separately, in large and
 10 well-bound or to be bound separate books, either in a fair
 11 hand or by printing, typewriting, or photographic process or
 12 by the use of prepared blank forms:

13 (1) deeds, grants, transfers, certified copies of
 14 final judgments or decrees partitioning or affecting the
 15 title or possession of real property any part of which is
 16 situated in the county; contracts to sell or convey real
 17 estate and mortgages of real estate; releases of mortgages,
 18 powers of attorney to convey real estate, leases which have
 19 been acknowledged or proved, and abstracts of such
 20 instruments which have been acknowledged or proved;

21 (2) notices of buyer's interest in real property,
 22 notwithstanding any other requirement of law or rule
 23 relating to eligibility for recording of the deed, contract
 24 for deed, or other document relating to the notice of
 25 buyer's interests;

1 (2)(3) certificates of births and deaths;
 2 (3)(4) wills devising real estate admitted to probate;
 3 (4)(5) official bonds;
 4 (5)(6) transcripts of judgments which by law are made
 5 liens upon real estate;
 6 (6)(7) instruments describing or relating to the
 7 individual property of married persons and sole trader
 8 judgments;
 9 (7)(8) all orders and decrees made by the district
 10 court in probate matters affecting real estate and which are
 11 required to be recorded;
 12 (8)(9) notice of preemption claims;
 13 (9)(10) notice and declaration of water rights;
 14 (10)(11) assignments for the benefit of creditors;
 15 (11)(12) affidavits of annual work done on mining
 16 claims;
 17 (12)(13) notices of mining locations and declaratory
 18 statements;
 19 (13)(14) estrays and lost property;
 20 (14)(15) a book containing appraisalment of state lands;
 21 (15)(16) such other writings as are required or
 22 permitted by law to be recorded."

23 Section 2. Section 7-4-2619, MCA, is amended to read:
 24 "7-4-2619. Indexes to recorded documents. Every county
 25 clerk, as ex officio recorder, must keep:

1 (1) an index of deeds, grants and transfers, and
 2 contracts to sell or convey real estate AND NOTICES OF
 3 BUYER'S INTEREST IN REAL PROPERTY labeled "Grantors", with
 4 each page divided into four columns headed, respectively:
 5 "Names of grantors", "Names of grantees", "Date of deeds,
 6 grants, transfers, or contracts, OR NOTICES", and "Where
 7 recorded";

8 (2) an index of deeds AND NOTICES OF BUYER'S INTEREST
 9 IN REAL PROPERTY labeled "Grantees", with each page divided
 10 into four columns headed, respectively: "Names of grantees",
 11 "Names of grantors", "Date of deeds, grants, transfers, or
 12 contracts, OR NOTICES", and "Where recorded";

13 (3) an index of mortgages labeled "Mortgages of real
 14 property", with the pages thereof divided into six columns
 15 headed, respectively: "Names of mortgagors", "Names of
 16 mortgagees", "Dates of mortgages", "Where recorded", "When
 17 filed", and "When canceled";

18 (4) an index of mortgages labeled "Mortgages of real
 19 property", with the pages thereof divided into six columns
 20 headed, respectively: "Names of mortgagees", "Names of
 21 mortgagors", "Date of mortgage", "Where recorded", "When
 22 filed", and "When canceled";

23 (5) an index of mortgages labeled "Releases of
 24 mortgages of real property--Mortgagees", with the pages
 25 thereof divided into six columns headed, respectively:

1 "Parties whose mortgages are released", "Parties releasing",
 2 "Date of release", "Where recorded", "Dates of mortgages
 3 released", and "Where mortgages released are recorded";

4 (6) an index of powers of attorney labeled "Powers of
 5 attorney", with each page divided into five columns headed,
 6 respectively: "Names of parties executing powers", "To whom
 7 powers are executed", "Date of powers", "Date of recording",
 8 and "To whom powers are executed";

9 (7) an index of leases labeled "Leases", with each
 10 page divided into four columns headed, respectively: "Names
 11 of lessors", "Names of lessees", "Date of leases", and "When
 12 and where recorded";

13 (8) an index of leases labeled "Lessees", with each
 14 page divided into four columns headed, respectively: "Names
 15 of lessees", "Names of lessors", "Date of leases", and "When
 16 and where recorded";

17 (9) an index of marriage certificates labeled
 18 "Marriage certificate--Men", with each page divided into six
 19 columns headed, respectively: "Men married", "To whom
 20 married", "When married", "By whom married", "Where
 21 married", and "Where certificates are recorded";

22 (10) an index of marriage certificates labeled
 23 "Marriage certificates--Women", with each page divided into
 24 six columns headed, respectively: "Women married" (and under
 25 this head placing the family names of the women), "To whom

1 married", "When married", "By whom married", "Where
2 married", and "Where certificates are recorded";

3 (11) an index of assignments of mortgages and leases
4 labeled "Assignments of mortgages and leases--Assignors",
5 with each page divided into five columns headed,
6 respectively: "Assignors", "Assignees", "Instruments
7 assigned", "Date of assignment", and "When and where
8 recorded";

9 (12) an index of assignments of mortgages and leases
10 labeled "Assignments of mortgages and leases--Assignees",
11 with each page divided into five columns headed,
12 respectively: "Assignees", "Assignors", "Instruments", "Date
13 of assignment", and "When and where recorded";

14 (13) an index of wills labeled "Wills", with each page
15 divided into four columns headed, respectively: "Names of
16 testators", "Date of will", "Date of probate", and "When and
17 where recorded";

18 (14) an index of official bonds labeled "Official
19 bonds", with each page divided into five columns headed,
20 respectively: "Names of officers", "Names of offices", "Date
21 of bond", "Amount of bond", and "When and where recorded";

22 (15) an index of notices of mechanics' liens labeled
23 "Mechanics' liens", with each page divided into three
24 columns headed, respectively: "Parties claiming liens",
25 "Against whom claimed", and "Notices, when filed";

1 (16) an index to transcripts of judgments labeled
2 "Transcripts of judgments", with each page divided into
3 seven columns headed, respectively: "Judgment debtors",
4 "Judgment creditors", "Amount of judgment", "Where
5 recovered", "When recovered", "When transcript filed", and
6 "When judgment satisfied";

7 (17) an index of attachments labeled "Attachments",
8 with each page divided into six columns headed,
9 respectively: "Parties against whom attachments are issued",
10 "Parties issuing attachments", "Notices of attachments",
11 "When filed", and "When attachments discharged";

12 (18) an index of notices of the pendency of actions
13 labeled "Notices of actions", with each page divided into
14 three columns headed, respectively: "Parties to actions",
15 "Notices, when recorded", and "When filed";

16 (19) an index of certificates of sale of real estate
17 sold under execution or under orders made in any judicial
18 proceedings labeled "Certificates of sale", with each page
19 divided into four columns headed, respectively: "Plaintiff",
20 "Defendant", "Purchaser at sale", and "Date of sale";

21 (20) an index of the individual property of married
22 persons and sole trader judgments labeled "Individual
23 property of married persons and sole traders", with each
24 page divided into five columns headed, respectively: "Names
25 of married persons", "Names of their spouses", "Nature of

1 instruments recorded", "When recorded", and "Where
2 recorded";

3 (21) an index to affidavits for annual work done on
4 mining claims labeled "Annual work on mining claims",
5 showing the name of the affiant, the name of the claim,
6 where situated, and the year when the work was done;

7 (22) an index of mining claims and declaratory
8 statements labeled "Notices of location of mining claims and
9 declaratory statements", with each page divided into four
10 columns headed, respectively: "Locators", "Name of claim",
11 "Notice, when filed", and "Where recorded";

12 (23) an index to the register of births and deaths;

13 (24) an index to notices and declarations of water
14 rights;

15 (25) an index to the "estrays and lost property book";

16 (26) an index to the record of assignments for the
17 benefit of creditors, containing names of assignor and
18 assignee, date and where recorded, and inventory, when
19 filed;

20 (27) an index to financing statements as provided in
21 Part 4 of the Uniform Commercial Code--Secured Transactions;

22 (28) an index to filed subdivision plats, containing
23 number of lots, number of acres, filing date, and the
24 location of the quarter section of each subdivision;

25 (29) an index to the book of maps and plats, which must

1 contain the name of the proprietor of the town, village, or
2 addition platted and a general description of the same;

3 ~~§101--an index by grantors and an index by grantees--of~~
4 ~~statements to records as provided for in 76-1-102, using the~~
5 ~~attached instrument for the necessary information~~

6 ~~§101~~§111(10) a miscellaneous index, in which must be
7 indexed papers not hereinbefore stated."

8 Section 3--Section 7-4-2620--MCA--is amended to read:

9 "7-4-2620--Details--relating--to--indexes--(1)--The
10 county clerk may keep in the same volume any two or more--of
11 the--indexes--mentioned--in--7-4-2619, but the several indexes
12 must be kept distinct from each other, with the volumes
13 distinctly marked on the outside in such way as to show all
14 the indexes kept therein

15 (2)--The names of the parties in the--first--column--of
16 the--several--indexes--must be arranged in alphabetical order
17 When a conveyance is executed by a sheriff, the name of--the
18 sheriff--and the party charged in the execution must both be
19 inserted in the index. When an--instrument--is--recorded--to
20 which an executor, administrator or trustee is a party, the
21 name--of--such executor, administrator or trustee together
22 with the name of the testator or intestate or party for whom
23 the trust is held, must be inserted in the index."

24 ~~§11--The indexes for statements of intent to record may~~
25 ~~not contain an entry for a statement filed more than 6~~

1 months--previously--after--6--months--have--elapsed--from--the
 2 recording filing date--of--a--statement--the--county--clerk--shall
 3 delete MARK--"VOID"--ON the--corresponding--index--entries if
 4 WITHIN--THE--6--MONTH--PERIOD--A--RELEASE--IS--FILED--AS--PROVIDED--IN
 5 76-3-382--THE--COUNTY--CLERK--SHALL--NOTE--THE--RECEPTION
 6 NUMBER--OR--BOOK--AND--PAGE--NUMBER--OF--THE--RELEASE--OF--THE
 7 STATEMENT--OF--INTENT--ON--THE--CORRESPONDING--INDEX--ENTRIES"

8 Section-4--Section-70-21-201--MCA--is--amended--to--read--
 9 "70-21-201--What--may--be--recorded---recording--copy--in
 10 another--county---{1}--Any--instrument--or--judgment--affecting
 11 the--title--to--or--possession--of--real--property--may--be--recorded
 12 under--this--part"

13 {2}--A--statement--of--intent--to--record--provided--for--in
 14 76-3-382--may--be--recorded--FILED--under--this--part"

15 {2}{2}--When--any--instrument--or--judgment--affecting--the
 16 title--to--or--possession--of--real--property--situated--in--more
 17 than--one--county--in--this--state--has--been--recorded--in--either--of
 18 such--counties--a--copy--thereof--certified--to--by--the--county
 19 clerk--of--the--county--in--which--it--has--been--recorded--may--be
 20 recorded--in--any--other--county--in--this--state--wherein--any
 21 portion--of--the--real--property--affected--by--such--instrument--or
 22 judgment--is--situated--and--such--records--will--have--the--same
 23 effect--as--if--the--original--instrument--or--judgment--had--been--so
 24 recorded"

25 Section-5--Section-70-21-382--MCA--is--amended--to--read--

1 "70-21-382--Recording--as--constructive--notice---effect
 2 of--recording--copy--in--other--county---{1}--Every--conveyance--of
 3 real--property--acknowledged--or--proved--and--certified--and
 4 recorded--as--prescribed--by--law--from--the--time--it--is--filed
 5 with--the--county--clerk--for--record--is--constructive--notice--of
 6 the--contents---thereof---to--subsequent---purchasers--and
 7 mortgagees"

8 {2}--A--certified--copy--of--any--such--recorded--conveyance
 9 may--be--recorded--in--any--other--county--and--when--so--recorded
 10 the--record--thereof--shall--have--the--same--force--and--effect--as
 11 though--it--was--of--the--original--conveyance"

12 {2}--From--the--time--a--statement--of--intent--to--record--is
 13 filed--with--the--county--clerk--for--recording--and--for--a--6--month
 14 period--thereafter--the--statement--is--constructive--notice--of
 15 the--contents---thereof---to--subsequent---purchasers--and
 16 mortgagees--if--the--instrument--which--gave--rise--to--the
 17 statement--is--recorded--within--the--6--month--period--then--for
 18 purposes--of--constructive--notice--THE--RECORDING--DATE--OF--the
 19 instrument--is--considered--to--have--BE--the--same--recording--date
 20 as--the--FILING--DATE--OF--THE--statement--if--the--instrument--is
 21 recorded--after--the--6--month--period--then--the--recording--date
 22 is--the--same--as--the--actual--date--of--recording--the--instrument"

23 Section-6--Section--76-3-382--MCA--is--amended--to--read--

24 "76-3-382--Restrictions---on---recording---instruments
 25 relating--to--land--subject--to--surveying--requirements--{1}--The

1 county clerk and recorder of any county shall not record any
 2 instrument which purports to transfer title to or possession
 3 of a parcel or tract of land which is required to be
 4 surveyed by this chapter unless the required certificate of
 5 survey or subdivision plat has been filed with the clerk and
 6 recorder and the instrument of transfer describes the parcel
 7 or tract by reference to the filed certificate or plat.

8 ~~121. If a person is unable to record an instrument~~
 9 ~~because of the operation of subsection 111, the person may~~
 10 ~~file a statement of intent to record. The recorded filed~~
 11 ~~statement serves as constructive notice for a 6-month period~~
 12 ~~as provided in 70-21-302. The statement is subject to the~~
 13 ~~requirements of Title 70, Chapter 21, part 2. The A-COPY OF~~
 14 ~~THE underlying instrument must be attached to the statement~~
 15 ~~and clearly marked: "This THE ORIGINAL OF THIS document may~~
 16 ~~not be recorded because of operation of section 70-3-302 OR~~
 17 ~~70-3-121. HEAR and THIS COPY is attached only for purposes~~
 18 ~~of constructive notice as provided in section 70-21-302.~~
 19 ~~HEAR. SUCH CONSTRUCTIVE NOTICE AUTOMATICALLY BECOMES INVALID~~
 20 ~~UPON THE FILING OF A RELEASE OF THE STATEMENT OF INTENT TO~~
 21 ~~WHICH THIS COPY IS ATTACHED OR UPON THE EXPIRATION OF 6~~
 22 ~~MONTHS FROM THE DATE OF FILING OF THE STATEMENT OF INTENT TO~~
 23 ~~WHICH THIS COPY IS ATTACHED IF THE ORIGINAL IS NOT RECORDED~~
 24 ~~WITHIN THAT TIME. No more than one statement may be filed~~
 25 ~~for an instrument, and no person may avoid the requirements~~

1 of this chapter by filing a series of successive
 2 statements"

-End-